



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/559,666

12/05/2005

Takao Shibata

Q91463

7227

23373 7590 06/23/2008  
SUGHRUE MION, PLLC  
2100 PENNSYLVANIA AVENUE, N.W.  
SUITE 800  
WASHINGTON, DC 20037

EXAMINER

MULLIS, JEFFREY C

ART UNIT

PAPER NUMBER

1796

MAIL DATE

DELIVERY MODE

06/23/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maeda (JP 07-331025).

Patentees disclose a composition which may contain as much as 99 % rubber modified styrenic resin and the remainder polyorganosiloxane based thermoplastic resin (see the Patent Abstracts of Japan abstract). The polysiloxane contains an agent "II" (as in applicants graft linking agent at a level of 0-1)% or preferably 0.5-5% (paragraph 4). Twenty percent (but up to 200%) vinyl monomer may be polymerized in the polyorganosiloxane containing the graft liker in paragraph 5.

No examples exist in which all of applicants limitations are present in combination. However, to arrive at applicants composition by selecting from the various choices of the patent would have been obvious to a practitioner having an ordinary skill in the art at the time of the invention in the expectation of adequate results basement any showing of surprising or unexpected results.

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyatake et al. (US 2003/0092819).

Patentees disclose a process in which polymerization of vinyl monomers (as in applicants vinyl monomer "C") is conducted in the presence of a silicone latex (i.e. grafted) with 5-40 parts monomer (paragraph 80). The silicone latex may contain 0-40% graftlinker or preferably 0.5-20% (paragraph 41).

No examples exist in which all of applicants limitations are present in combination. However, to arrive at applicants composition by selecting from the various choices of the patent would have been obvious to a practitioner having an ordinary skill in the art at the time of the invention in the expectation of adequate results basement any showing of surprising or unexpected results.

Applicant's arguments filed 3-21-08 have been fully considered but they are not persuasive. With regard to JP '025, it is true that none of the examples of the patent disclose all of the elements of the instant claims in combination. However, it is not the position of the examiner that JP '025 anticipates the claims. Applicants are correct that the preferable range of 0.5 to 5% for component "B" of JP '025 does not meet the limitations of the claims. However patentees broad range of 0-10% does overlap with the claimed range. While admittedly, the overlap is a less preferred range of JP '025 there is still sufficient motivation for those of ordinary skill in the art to operate within this range given that patentees disclose that it is workable. Admittedly, no amount of selecting from within the disclosure of the patent will result in applicants "a-1". However, only instant claim 2 (now allowable over JP '025) requires the presence of "a-1".

It is the position of the examiner that the ABS "thermoplastic" of Miyatake corresponds to applicants component "E" while Miyatakes "A" corresponds to applicants

"A".. The acrylic rubber of Miyatake does not appear to correspond to any of the claimed components although the open language of the claims do not actually exclude the acrylic rubber latex. In any case, with regard to applicants arguments in the second paragraph on page 12 of their remarks, 1-20% overlaps with 0.1-3% as recited by the claims. It is not the position of the examiner that any example discloses all of applicants limitations in combination and it is not the position of the examiner that Miyatke anticipates the claims. Applicants argue unexpected results. However, unexpected results must be with the closest prior art, MPEP 716. However the closest prior art in the instant case is one of the references relied upon and no data comparing examples according to the prior art with examples according to the invention in which only features by which the invention and prior art are varied have been presented.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 1796

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Jeffrey C. Mullis at telephone number 571 272 1075.

Jeffrey C. Mullis  
Primary Examiner  
Art Unit 1796

JCM

6-17-08

/Jeffrey C. Mullis/

Primary Examiner, Art Unit 1796